

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

RINKY DINK, INC., d/b/a PET STOP, a	)	
Washington Corporation, on behalf of itself	)	NO. 12-0499-JLR
and all others similarly situated,	)	
	)	DEFENDANT CAPITAL ADVANCE
Plaintiff,	)	SOLUTIONS, LLC'S ANSWER TO FIRST
	)	AMENDED COMPLAINT FOR DAMAGES,
vs.	)	INJUNCTIVE AND DECLARATORY
	)	RELIEF AND CROSS CLAIMS AGAINST
CAPITAL ADVANCE SOLUTIONS, LLC,	)	CO-DEFEENDANTS JGRD, INC., B2B
and JGRD, INC., B2B VOICE	)	VOICE BROADCASTING, INC. AND
BROADCASTING, INC. and VELOCITY	)	VELOCITY INFORMATION
INFORMATION CORPORATION,	)	CORPORATION
	)	
Defendants.	)	

COMES NOW defendant CAPITAL ADVANCE SOLUTIONS, LLC, [hereinafter referred to as "CAS"] and by way of Answer to plaintiff's First Amended Complaint, admits, denies and alleges as follows:

**I. PARTIES, JURISDICTION, VENUE**

1.1 Answering paragraph 1.1, defendant CAS admits that it is a New Jersey corporation with its principal place of business in Matawan, New Jersey and that it does business in the State of Washington; defendant has insufficient information to form a belief as to the truth or falsity of the remaining allegations, and therefore denies the same.

1           1.2     Answering paragraph 1.2, defendant CAS denies that plaintiff received a call  
2 which is the subject of its Complaint; all other allegations are denied based on lack of  
3 insufficient information to form a belief as to the truth or falsity thereof.

4           1.3     Defendant CAS denies the allegations of paragraph 1.3.

5           1.4     Defendant CAS denies the allegation of paragraph 1.4.

6  
7                               **II. FACTS**

8           2.1     Defendant CAS denies the allegation of paragraph 2.1

9           2.2     Defendant CAS denies the allegation of paragraph 2.2.

10          2.3     Defendant CAS denies the allegation of paragraph 2.3.

11          2.4     Answering paragraph 2.4, defendant CAS has insufficient information to form a  
12 belief as to the truth or falsity thereof, and therefore denies the same.

13          2.5     Answering paragraph 2.5, defendant CAS denies each and every allegation  
14 contained therein as it relates to the State of Washington, which is the only jurisdiction at issue  
15 in this Complaint, and affirmatively alleges that it has not and will not send or cause to send  
16 automated messages to the telephones of businesses in Washington State.

17                               **III. CAUSES OF ACTION**

18          3.1     Answering paragraph 3.1 thereof, defendant CAS realleges its answers set forth  
19 above.

20                               **Count A: Violation of RCW 80.36.400**

21          3.2     Defendant CAS denies the allegation of paragraph 3.2.

22          3.3     Defendant CAS denies the allegation of paragraph 3.3.

**Count B: Violation of RCW 19.86**

3.4 Defendant CAS denies the allegation of paragraph 3.4.

3.5 Defendant CAS denies the allegation of paragraph 3.5.

**Count C: Declaratory Relief Under the Declaratory  
Judgment Act (28 U.S.C. § 2201 et seq.)**

3.6 Defendant CAS denies the allegation of paragraph 3.6.

3.7 Defendant CAS denies the allegation of paragraph 3.7.

3.8 Defendant CAS denies the allegation of paragraph 3.8.

**IV. CLASS ACTION ALLEGATIONS**

4.1 Answering paragraph 4.1, defendant CAS realleges its answers set forth above.

4.2 Answering paragraph 4.2, the allegations contained therein are legal conclusions which do not require an answer. To the extent that an answer is required, defendant CAS denies the same.

4.3 Answering paragraph 4.3, the allegations contained therein are legal conclusions which do not require an answer. To the extent that an answer is required, defendant CAS denies the same.

4.4 Answering paragraph 4.4, the allegations contained therein are legal conclusions which do not require an answer. To the extent that an answer is required, defendant CAS denies the same.

4.5 Answering paragraph 4.5, the allegations contained therein are legal conclusions which do not require an answer. To the extent that an answer is required, defendant CAS denies the same.

1           4.6     Answering paragraph 4.6, the allegations contained therein are legal conclusions  
2 which do not require an answer. To the extent that an answer is required, defendant CAS denies  
3 the same.

4           4.7     Answering paragraph 4.7, the allegations contained therein are legal conclusions  
5 which do not require an answer. To the extent that an answer is required, defendant CAS denies  
6 the same.

7           4.8     Answering paragraph 4.8, the allegations contained therein are legal conclusions  
8 which do not require an answer. To the extent that an answer is required, defendant CAS denies  
9 the same.  
10

11           BY WAY OF FURTHER ANSWER AND AS AFFIRMATIVE DEFENSES, defendant  
12 CAS alleges as follows:

13           1.     This Court lacks subject matter jurisdiction over this action.  
14           2.     Plaintiff's Complaint fails to state a claim upon which relief may be granted.  
15           3.     Insufficiency of process and/or service of process, and therefore the Court lacks  
16 personal jurisdiction over defendant.

17           4.     Plaintiff's claims are barred by Federal preemption.  
18           5.     Plaintiff has failed to mitigate damages.  
19           6.     The claims of Plaintiff and members of the purported class may be barred by  
20 applicable statutes of limitations, waiver and/or laches.

21           7.     That any alleged violation occurred without its authorization or knowledge. To  
22 the extent that the acts complained of were committed by third parties over which defendant  
23 exercised no active control, plaintiff may not recover from defendant.  
24

1           8.     To the extent that calls were made to the State of Washington as alleged by  
2 plaintiff, defendant did not intend to make such calls which were unauthorized.

3           9.     That to the extent that plaintiff's Complaint states a claim for injunctive relief,  
4 such claim is moot.

5           10.    Defendant reserves the right to add additional affirmative defenses as further  
6 discovery and investigation may warrant.

7           BY WAY OF FURTHER ANSWER AND AS CROSS CLAIMS against co-defendants  
8 JGRD, INC., B2B VOICE BROADCASTING, INC., and VELOCITY INFORMATION  
9 CORPORATION, defendant CAPITAL ADVANCE SOLUTIONS, LLC ["CAS"] alleges as  
10 follows:  
11

12           1.     Defendant CAS realleges the allegations of the Plaintiff's Complaint, not for  
13 purposes of admitting the truth thereof but for the purpose of supporting its Cross Claims  
14 against co-defendants herein.

15           2.     Defendant CAS has denied, does deny and continues to deny plaintiff's  
16 allegations against CAS or that CAS has any liability to plaintiff. Defendant CAS reserves its  
17 challenge to the subject matter and personal jurisdiction of this Court, and does not intend to  
18 waive these objections by requesting affirmative relief against other co-parties.

19           3.     Co-defendants JGRD, INC., B2B VOICE BROADCASTING, INC. and/or  
20 VELOCITY INFORMATION CORPORATION may have made or facilitated calls to  
21 businesses in the State of Washington ostensibly on behalf of defendant CAS, but in fact  
22 without authorization or direction by defendant CAS, and, in fact, against the express direction  
23 of defendant CAS.  
24

1           4.     If defendant CAS is held liable to plaintiff for such calls referred to above and  
2 plaintiff is awarded damages, such liability and damages are based on the acts and omissions of  
3 co-defendants JGRD, INC., B2B VOICE BROADCASTING, INC. and/or VELOCITY  
4 INFORMATION CORPORATION, and defendant CAS is entitled to indemnity and/or  
5 contribution from co-defendants for any amount of damages assessed against it, including  
6 statutory damages, punitive damages, and attorneys' fees and costs in defending this action, and  
7 should have Judgment therefore.

8  
9           WHEREFORE, having fully answered plaintiff's Complaint and having stated its  
10 Affirmative Defenses and Cross Claims, defendant Capital Advance Solutions LLC prays:

11           A.     That plaintiff's Complaint be dismissed with prejudice and plaintiff take nothing  
12 thereby;

13           B.     For its costs and disbursements herein against plaintiff, including its reasonable  
14 attorney's fees;

15           C.     If plaintiff should recover any damages, costs or fees against defendant Capital  
16 Advance Solutions LLC, defendant Capital Advance Solutions LLC should have judgment over  
17 against co-defendants JGRD, Inc., B2B Voice Broadcasting, Inc. and/or Velocity Information  
18 Corporation for all such damages, costs and fees, including Capital Advance Solutions'  
19 reasonable attorneys' fees in defending this action.  
20

21           \* \* \*

22           \* \* \*

23           \* \* \*

1 D. For such other and further relief as the Court may deem just and proper.

2  
3 DATED this 10<sup>th</sup> day of May, 2012.

4 SLOAN BOBRICK, P.S.

5 By: /s/ Joanne Henry  
6 JOANNE HENRY, WSBA #6798

7  
8 By: /s/ Sandra B. Bobrick  
9 SANDRA B. BOBRICK, WSBA #11359

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13 E-mail: sbobrick@sloanbobricklaw.com  
14 jhenry@sloanbobricklaw.com

15 Attorneys for Defendant Capital Advance  
16 Solutions, LLC

17 **CERTIFICATE OF SERVICE**

18 I hereby certify that on the 10<sup>th</sup> day of May, 2012, I electronically filed the foregoing with the Clerk of  
19 the Court using CM/ECF system which will send notification of such filing to the following: Rob Williamson and  
20 Kim Williams, 17253 Agate Street NE, Bainbridge Island, WA 98110, roblin@williamslaw.com,  
kim@williamslaw.com, plaintiff's attorneys, and to Rand Koler, 615 Second Avenue, Seattle, WA 98104,  
rand@kolerlaw.com, attorney for co-defendant JGRD, Inc. and I hereby certify that I have mailed by United States  
21 Postal Service the document to the following non CM/ECF participants: N/A.

22 /s/ Joanne Henry

23 JOANNE HENRY, WSBA #6798